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Application number	10/707,770
Confirmation number	1769
Applicant(s)	Markus Hildinger
Examiner	Afaf Ahmed
Art Unit	3622
Filing date	01/11/2004
Contents	Reply to Notice of Abandonment mailed 01/22/2009 and reply to Office Action Summary mailed 04/03/2008

No new subject matter has been entered.

/Markus Hildinger/  
Markus Hildinger

Date: March 9, 2009



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,770	01/11/2004	Markus Hildinger	MP3	1769
37439	7590	01/22/2009	EXAMINER	
MARKUS HILDINGER			AHMED, AFFAF	
CRANACHWEG 8			ART UNIT	PAPER NUMBER
PFORZHEIM, 75173			3622	
GERMANY				
			MAIL DATE	DELIVERY MODE
			01/22/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Notice of Abandonment</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/707,770	HILDINGER ET AL.	
	Examiner AFAF AHMED	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on 21 March 2008.
  - (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b)  No corrected drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

No reply has been received.

Affaf Ahmed  
Examiner  
Art Unit: 3622

/Y. R./  
Primary Examiner, Art Unit 3622

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

**Cover sheet**

Application number	10/707,770
Confirmation number	1769
Applicant(s)	Markus Hildinger
Examiner	Afaf Ahmed
Art Unit	3622
Filing date	01/11/2004
Contents	Reply to Office Action Summary mailed 04/03/2008 (pages 2 - 10)

No new subject matter has been entered.

**Claim Objections**

The examiner objected claims 3 – 23 based on 37 CFR 1.75 (c) (#3). The inventors acknowledge this objection and modified the claims accordingly in order to avoid multiple dependent claims.

The examiner objected claims 24 – 45 as being a substantial duplicate of claims 1 – 23 (37 CFR 1.75) (#5). The inventors traverse this objection. At the same time, in order to comply with the claim rejections under 35 USC 112, the inventors modified the claims so that claim 1 refers to a “method”, claim 24 to a “system”.

**Claim Rejections – 35 USC 112**

The examiner rejected claims 1 and 2 as being indefinite (#7). The inventors acknowledge this objection, and claims 1 and 2 now refer to a “method” only. At the same time, the author amended claims 24 and 25 to refer to a “system” only (see also claim objection based on 37 CFR 1.75).

The examiner asked for clarification of “interrupt” vs. “superimpose” (#8). The inventors clarified this point by making only 3 mutually exclusive, collectively exhaustive divisions, i.e., the advertisement message part is played either before, after or overlapping with the music entertainment part. As for overlapping, there are two alternatives: The advertisement message part can either interrupt the music entertainment part (i.e., the music discontinues, the advertisement message part is played, and then the music re-continues) or is superimposed on the music entertainment part (i.e., the music does not discontinue and the advertisement message part is played at the same time as the music entertainment part, where the volume of the music entertainment part – in some embodiments – could be lower than the volume of the advertisement message part).

## Claim Rejections – 35 USC 102

The examiner mentioned 3 prior art references of particular relevance to the present invention:

- (1) U.S. patent 6,351,736 from Weisberg et al.
- (2) U.S. patent 5,793,364 from Bolanos et al.
- (3) U.S. patent 5,959,623 from Van Hoff et al.

As for (1), the inventors consider their invention to be distinct from and thus not anticipated by the invention of Weisberg et al. (U.S. patent 6,351,736) for the following reasons:

1. Weisberg et al. refer to "displaying" advertisements, i.e., providing visual data. The present invention focuses on audio data only. In that respect, the present invention does not need a monitor or screen in order to "display" the advertising message. Furthermore, Weisberg et al. mentions that the two types of data are of a different type, whereas the present invention claims they are identical (i.e., both digital audio data). Some quotes from U.S. patent 6,351,736 in support are as follows:
  - a. "Claim 1: A system for playing data of a first data type while **displaying an advertisement** of a second data type, **the first data type being different than the second data type**, the system comprising: ..."
  - b. "Claim 2: The system of claim 1, wherein the data of the first data type is audio data and the **advertisement is visual data.**"
  - c. "Claim 30: A system for displaying data of a first data set in conjunction with **displaying an advertisement** of a second data set, the system comprising: ..."
  - d. "Claim 48: A method for displaying data of a first data set and **displaying an advertisement** of a second data set, ..."

- e. The field of the invention starts with: "The present invention relates to a system and method for **displaying visual advertisements** with played data, and in particular, for displaying such advertisements in the format of **video data** while electronic files containing audio data and/or streaming audio data are played on a computer."
2. The examiner referred to a particular part of the Weisberg patent. I quote: "The present invention is of a method and a system for playing a first type of data, including but not limited to, audio stream data or audio data in an electronic file for example, for the user while **simultaneously displaying an advertisement** in the form of a **second type of data, such as video data** for example. The system and method enable advertisements to be displayed while data is played by the computer of the user, for example while music is being played from an audio file by the computer of the user, thereby providing an alternative revenue source for the owner of the rights to the data such as the music. **Furthermore, since the advertisement is in a data format, preferably video data, which is different from that of the audio music file, the display of such an advertisement does not interfere with the enjoyment of the music or other audio data being played.**" Here, again, Weisberg mentions the visual nature of the advertisement, whereas the present invention refers to audio data only. More importantly, Weisberg considers it a problem when the advertisement message is of the same data type as the entertainment message. The present invention however only refers to such instances, where the advertisement message has the same data type as the entertainment part. Thus, in the present invention – contrary to the teachings of Weisberg – the

advertisement part for sure **will interfere with the enjoyment of the music or other audio data being played.**

3. Weisberg further writes in his invention: "The first type of data should be different from the second type of data in the displayed and/or stored format. Therefore, if the first type of data is audio data, the advertisement is preferably displayed as video data, text data and/or graphic images, or a combination thereof. However, if the first type of data is video data, then the advertisement is preferably displayed as text data, graphic images, any other type of data which is different than the video data, or a combination thereof." This would not be applicable to the present invention, where the advertisement message and the entertainment parts are both of the same data type (audio data).
4. Furthermore, Weisberg does not include pure audio data as part of his definition of "video data". I quote: "Hereinafter, the term "video data" includes, but is not limited to, graphic still images, video stream data, animation, and displayed text data."
5. In addition, Weisberg's definition of "displaying" includes presentation of data through a different mechanism, whereas data are presented through the same mechanism in the present invention. I quote: "By "displaying" it is meant that the data is presented to the user in a suitable format, through a **different mechanism** than the first type of data is played."

Thus, the invention of Weisberg et al. is different from the present invention, even if they are linked by the same desired output, i.e., generating revenues from media consumption.

As for (2), the inventors consider their invention to be distinct from the invention of Bolanos et al. (U.S. patent 5,793,364) for the following reasons:

1. The invention of Bolanos et al. focuses on providing "a **graphical user interface** for playback of audiovisual programs, which **entices a user to choose to display an advertisement**. It is another object of the present invention to provide a **graphical user interface** for playback of audiovisual programs, which includes a graphic interface element that draws attention to itself." This is different from the present invention as the present invention focuses on audio files, not on audiovisual programs or graphical user interfaces. Furthermore, Bolanos et al. offer a choice to display the advertisement, whereas in the present invention, no choice is given. As such, the invention of Bolanos et al. is different from the present invention, even if they are linked by the same desired output, i.e., generating revenues from media consumption. In particular, the present invention does not make use of any particular graphical user interface.
2. Furthermore, Bolanos et al. describe two distinct audiovisual programs. Yet, the present invention refers to a single digital audio file, i.e., not two separate files, where this single file links an advertisement message part with a music entertainment part.

As for (3), the inventors consider their invention to be distinct from the invention of Van Hoff et al. (U.S. patent 5,959,623) for the following reasons:

1. The invention of Van Hoff et al. refers to "informational images". Yet, the present invention refers to audio data, not visual data. I quote claim 1 of Van Hoff et al.: "A computer-implemented method for **displaying informational images on a display of a client computer** concurrently while said client computer executes an end user application program, the method comprising the steps of: ..."

2. Furthermore, the invention of Van Hoff et al. focuses on the display of information on a computer screen or similar device. The present invention – as it refers to audio data – is not within the scope of U.S. patent 5,959,623.
3. In addition, the information is “user selectable” based on the teachings of Van Hoff et al. I quote: “In summary, the present invention is a method and apparatus for displaying **user selectable advertising information** or other **user selectable informational images** on a host computer.” Contrary to that, based on the teachings of the present invention, the advertising information is not selectable, given that it is part of the same, one digital audio file as the music entertainment part.

Thus, the invention of Van Hoff et al. is different from the present invention, even if they are linked by the same desired output, i.e., generating revenues from media consumption. In particular, the present invention does not make use of user selectable informational images.

As for the other prior art references cited by the examiner, the inventors do not feel that they anticipate the present invention.

In particular, U.S. patents 5,222,189, 5,579,430, 6,291,756, 6,353,173, 6,515,212 and 6,658,383 describe digital encoding or storing processes used in creating digital audio files. Yet, the present invention does not claim a particular encoding process, but the combination of an advertisement message part with a music entertainment part as part of a digital audio file. This aspect is not covered in the aforementioned prior art references.

U.S. patents 5,715,314, 5,960,411 and 6,507,727 describe online network sales or distribution systems. Whereas such systems can be used in combination with the present invention, i.e., to purchase a digital audio file,

these prior art patents do not claim the combination of an advertisement message part with a music entertainment part as part of a digital audio file and thus do not anticipate the present invention.

U.S. patents 5,740,549 and 6,119,098 describe systems and methods for targeting and distributing advertisements over a distributed network. Whereas such a system can be used in combination with the present invention, i.e., to purchase and/or distribute a digital audio file, these prior art patents do not claim the combination of an advertisement message part with a music entertainment part as part of a digital audio file and thus do not anticipate the present invention. Moreover, those patents primarily refer to visual display of an advertisement, whereas the present invention only claims an acoustic "presentation" of an advertisement message part.

U.S. patent 5,848,397 describes an apparatus for scheduling the presentation of advertisements on a computer monitor. Given that a computer monitor refers to a visual presentation and the present invention claims only acoustic presentation, this prior art reference does not anticipate the present invention. The inventors of that prior art reference also consider e-mail as application for their invention, not digital music files.

U.S. patent 5,948,061 describes methods and apparatuses for targeting the delivery of advertisements over a network, where statistics are compiled on individual users and networks and the use of the advertisements is tracked. Whereas such a system can be used in combination with the present invention, i.e., to monitor and track the digital audio files of the present invention, this prior art patent does not claim the combination of an advertisement message part with a music entertainment part as part of a digital audio file and thus does not anticipate the present invention.

U.S. patents 6,385,306 6,647,417 describe methods for transmitting or distributing audio files. Whereas such methods can be used in

combination with the present invention, i.e., to transmit a digital audio file of the present invention, these prior art patents do not claim the combination of an advertisement message part with a music entertainment part as part of a digital audio file and thus do not anticipate the present invention.

U.S. patent 6,541,689 focuses on non-pre-recorded digital streams. Yet, the present invention – by claiming a digital audio file – only focuses on pre-recorded digital audio files. Furthermore, the present invention does not claim streams. As such, this prior art reference does not apply to the present invention and also does not anticipate the present invention. Moreover, this prior art patent does not claim the combination of an advertisement message part with a music entertainment part as part of a digital audio file.

To summarize: The prior art references cited by the examiner can be generally classified into one of the following categories:

1. Prior art references in respect to advertisements
2. Prior art references in respect to encoding, recording or storing digital audio files.
3. Prior art references in respect to tracking, transmitting, distributing and/or selling digital content.

Whereas prior art references of categories 2 and 3 can be used in combination with the present invention (e.g., to create the digital audio files of the present invention, to distribute the digital audio files of the present invention, to mediate the sales of the digital audio files of the present invention), the prior art references of categories 2 and 3 do not claim the combination of an advertisement message part with a music entertainment part as part of a digital audio file and thus do not anticipate the present invention.

As for category 1 in general and U.S. patent 6,351,736 in particular, these prior art references focus generally on visual advertisements, whereas the

present invention is limited to acoustic presentation of advertisements. Furthermore, none of the prior art references explicitly claims the combination of an advertisement message part with a music entertainment part as part of a single digital audio file, and thus the present invention is not anticipated.

**Cover sheet**

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Examiner	Afaf Ahmed
Art Unit	3622
Filing date	01/11/2004
Contents	Claims amendment (pages 2 - 13)

No new subject matter has been entered.

## CLAIMS

We claim

- (1) (Currently amended) a method ~~and system~~ for selling and/ or distributing a digital audio file wherein said digital audio file comprises
  - (a) an advertisement message part in a digital audio format, and
  - (b) a music entertainment part in a digital audio format.
- (2) (Currently amended) The method ~~and system~~ of claim 1 wherein said advertisement message part
  - (a) directly precedes the music entertainment part, and/ or
  - (b) directly follows the music entertainment part, and/ or
  - (c) ~~is located within (interrupts) the music entertainment part, and/ or~~
  - (d) ~~is overlaid (superimposed) on the music entertainment part, and/ or~~
  - (e) overlaps with the music entertainment part such that it either interrupts the music entertainment part or is superimposed (overlaid) on the music entertainment part.
- (3) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein the advertisement message part and the music entertainment part are integrated into the digital audio file so that both parts are reproduced or played together on a decoding or playback device once a decoding or playback is initialized by a user, hardware, or software.
- (4) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said digital audio file refers to a file format selected from at

least one of the following file formats: MPEG-2.AAC (Advanced Audio Coding), ATRAC3 (Adaptive Transform Acoustic Coding 3), MP3 (MPEG-1. Audio Layer 3), mp3PRO, MS audio (WMA: Windows Media Audio), TwinVQ (Transform-Domain Weighted Interleave Vector Quantization), Q design, RealAudio, AMR-NB, MP4, MIDI, WAV, or any other digital format or electronic music distribution (EMD) system.

- (5) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said advertisement message part is in a digital audio format comprising MPEG-2.AAC (Advanced Audio Coding), ATRAC3 (Adaptive Transform Acoustic Coding 3), MP3 (MPEG-1. Audio Layer 3), mp3PRO, MS audio (WMA: Windows Media Audio), TwinVQ (Transform-Domain Weighted Interleave Vector Quantization), Q design, RealAudio, AMR-NB, MP4, MIDI, WAV, or any other digital format or electronic music distribution (EMD) system.
- (6) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said music entertainment part is in a digital audio format comprising MPEG-2.AAC (Advanced Audio Coding), ATRAC3 (Adaptive Transform Acoustic Coding 3), MP3 (MPEG-1. Audio Layer 3), mp3PRO, MS audio (WMA: Windows Media Audio), TwinVQ (Transform-Domain Weighted Interleave Vector Quantization), Q design, RealAudio, AMR-NB, MP4, MIDI, WAV, or any other digital format or electronic music distribution (EMD) system.
- (7) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said advertisement message part and said music entertainment part are in the same digital audio format.

(8) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said advertisement message part and said music entertainment part are in different digital audio formats.

(9) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein the digital audio file of the present invention is in an uncompressed digital audio format.

(10) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein the digital audio file of the present invention is in a compressed digital audio format.

(11) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said digital audio file comprising an advertisement message part and a music entertainment part is sold at a lower price than a digital audio file comprising said same music entertainment part, but no advertisement message part.

(12) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein playback of said advertisement message part does not take more than preferentially 15%, more preferentially 10% and most preferentially 5% of the time it takes to playback said music entertainment part.

(13) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said advertisement message part and said music entertainment part are sold, distributed, acquired, accessed, downloaded, delivered, transferred, transmitted and/ or received as parts of the same digital audio file.

(14) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said digital audio file is sold, distributed, acquired, accessed, downloaded, delivered, transferred, transmitted and/ or received via

- (a) the Internet (including downloading; e-mail; wired; wireless via WiFi, 802.11 a/b/g, 802.16); and/ or
- (b) wireless phone networks based on transmission standards like GSM 900/1800/1900, GPRS, E-GPRS, EDGE, HSCSD, CSD, CDMA, UMTS and 3G networks; and/ or
- (c) wireless transmission (Bluetooth 1.0; Bluetooth 2.0; Infrared; WiFi; 802.11 a/b/g); and/ or
- (d) local (computer) stations that might be located in or outside of stores (e.g., music retail stores); and/ or
- (e) storage devices including CDs, DVDs, Memory Cards, Memory Sticks, Secure Digital (SD) cards, Multimedia (MMC) cards, Compact Flash cards, Smart Media cards, USB Flash Disks, Microdrives; and/ or
- (f) radio, terrestrial, cable or satellite transmission.

(15) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said advertisement message part advertizes, mentions, and/ or refers to

- (a) physical products including food, drugs, beverages, cars, tobacco, cosmetics; and/ or
- (b) services such as banking, financial services, travel, leisure activities, phone service, wireless service, cable service; and/ or
- (c) companies, brands, institutions, corporations, (legal) entities; and/ or
- (d) entertainment content such as movies, television content, music; and/ or

- (e) events such as sporting events, cultural events; and/ or
- (f) persons, artists, groups, or individuals; and/ or
- (g) a general message (e.g., referral to a web site where a specific product can be acquired); and/ or
- (h) advice; and/ or

any combination within and/ or between the different groups.

(16) (Currently amended) The method ~~and system~~ of claims 1 ~~and~~ 2 wherein said advertisement message part comprises

- (a) music; and/ or
- (b) sound; and/ or
- (c) noise; and/ or
- (d) spoken words; and/ or
- (e) a jingle or music branding; and/ or
- (f) voice branding; and/ or

any combination within and/ or between the different groups.

(17) (Currently amended) The method ~~and system~~ of claims 1 ~~and~~ 2 wherein said music entertainment part is a digital audio format of a single or a digital audio format of a part of a single that is or was listed on the Billboard Hot 100 single charts or Top 40 tracks.

(18) (Currently amended) The method ~~and system~~ of claims 1 ~~and~~ 2 wherein said music entertainment part is a digital audio format of at least one past, present or future single – independent of the way it is published.

(19) (Currently amended) The method ~~and system~~ of claims 1 ~~and~~ 2 wherein the content and/ or position of said advertisement message

part can change from playback to playback of the digital audio file of the present invention.

- (20) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein said digital audio file is played-back or reproduced on a computer, decoding device, (portable) MP3 player, (portable) digital music player, (portable) digital audio player, cellular phone, smart phone.
- (21) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein the consumer acquires the right to play a specific digital audio file of the present invention for an unlimited number of times by paying a specific price at one point in time.
- (22) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein the consumer acquires the right to play one or more digital audio files of the present invention for an unlimited number of times by paying a subscription fee.
- (23) (Currently amended) The method ~~and system~~ of claims 1 and 2 wherein the consumer pays a specific price each time the consumer plays a digital audio file of the present invention.
- (24) (Currently amended) a ~~method and~~ system for selling and/ or distributing a digital audio file wherein said digital audio file comprises
  - (a) at least one advertisement message part in a digital audio format, and
  - (b) at least one music entertainment part in a digital audio format.

(25) (Currently amended) The ~~method and~~ system of claim 24 wherein said advertisement message part(s)

- (a) directly precede(s) the music entertainment part(s), and/ or
- (b) directly follow(s) the music entertainment part(s), and/ or
- (c) ~~is located within (interrupts) the music entertainment part, and/ or~~
- (d) ~~is overlaid (superimposed) on the music entertainment part, and/ or~~
- (e) overlap(s) with the music entertainment part(s) such that it/they either interrupt(s) the music entertainment part(s) or is/are superimposed (overlaid) on the music entertainment part(s).

(26) (Currently amended) The ~~method and~~ system of claim 24 wherein the advertisement message part(s) and the music entertainment part(s) are integrated into the digital audio file so that all parts are reproduced or played together on a decoding or playback device once a decoding or playback is initialized by a user, hardware, or software.

(27) (Currently amended) The ~~method and~~ system of claim 24 wherein said digital audio file refers to a file format selected from at least one of the following file formats: MPEG-2.AAC (Advanced Audio Coding), ATRAC3 (Adaptive Transform Acoustic Coding 3), MP3 (MPEG-1. Audio Layer 3), mp3PRO, MS audio (WMA: Windows Media Audio), TwinVQ (Transform-Domain Weighted Interleave Vector Quantization), Q design, RealAudio, AMR-NB, MP4, MIDI, WAV, or any other digital format or electronic music distribution (EMD) system.

(28) (Currently amended) The ~~method and~~ system of claim 24 wherein said advertisement message part(s) is (are) in a digital audio format

comprising MPEG-2.AAC (Advanced Audio Coding), ATRAC3 (Adaptive Transform Acoustic Coding 3), MP3 (MPEG-1. Audio Layer 3), mp3PRO, MS audio (WMA: Windows Media Audio), TwinVQ (Transform-Domain Weighted Interleave Vector Quantization), Q design, RealAudio, AMR-NB, MP4, MIDI, WAV, or any other digital format or electronic music distribution (EMD) system.

- (29) (Currently amended) The ~~method and~~ system of claim 24 wherein said music entertainment part(s) is (are) in a digital audio format comprising MPEG-2.AAC (Advanced Audio Coding), ATRAC3 (Adaptive Transform Acoustic Coding 3), MP3 (MPEG-1. Audio Layer 3), mp3PRO, MS audio (WMA: Windows Media Audio), TwinVQ (Transform-Domain Weighted Interleave Vector Quantization), Q design, RealAudio, AMR-NB, MP4, MIDI, WAV, or any other digital format or electronic music distribution (EMD) system.
- (30) (Currently amended) The ~~method and~~ system of claim 24 wherein said advertisement message part(s) and/ or said music entertainment part(s) are in the same digital audio format.
- (31) (Currently amended) The ~~method and~~ system of claim 24 wherein said advertisement message part(s) and/ or said music entertainment part(s) are in different digital audio formats.
- (32) (Currently amended) The ~~method and~~ system of claim 24 wherein the digital audio file of the present invention is in an uncompressed digital audio format.

(33) (Currently amended) The ~~method and system~~ of claim 24 wherein the digital audio file of the present invention is in a compressed digital audio format.

(34) (Currently amended) The ~~method and system~~ of claim 24 wherein said digital audio file comprising at least one advertisement message part and at least music entertainment part is sold at a lower price than a digital audio file comprising said same music entertainment part(s), but no advertisement message part(s).

(35) (Currently amended) The ~~method and system~~ of claim 24 wherein playback of said advertisement message part(s) does not take more than preferentially 15%, more preferentially 10% and most preferentially 5% of the time it takes to playback said music entertainment part(s).

(36) (Currently amended) The ~~method and system~~ of claim 24 wherein said advertisement message part(s) and said music entertainment part(s) are sold, distributed, acquired, accessed, downloaded, delivered, transferred, transmitted and/ or received as parts of the same digital audio file.

(37) The method and system of claims 24, 25, 26 and 36 wherein said digital audio file is sold, distributed, acquired, accessed, downloaded, delivered, transferred, transmitted and/ or received via

- (a) the Internet (including downloading; e-mail; wired; wireless via WiFi, 802.11 a/b/g); and/ or
- (b) wireless phone networks based on transmission standards like GSM 900/1800/1900, GPRS, E-GPRS, EDGE, HSCSD, CSD, CDMA, UMTS and 3G networks; and/ or
- (c) wireless transmission (Bluetooth 1.0; Bluetooth 2.0; Infrared; WiFi; 802.11 a/b/g); and/ or
- (d) local (computer) stations that might be located in or outside of stores (e.g., music retail stores); and/ or
- (e) storage devices including CDs, DVDs, Memory Cards, Memory Sticks, Secure Digital (SD) cards, Multimedia (MMC) cards, Compact Flash cards, Smart Media cards, USB Flash Disks, Microdrives; and/ or
- (f) radio, terrestrial, cable or satellite transmission.

(38) The method and system of claims 24 and 25 wherein said advertisement message part(s) advertise(s), mention(s), and/ or refer(s) to

- (a) physical products including food, drugs, beverages, cars, tobacco, cosmetics; and/ or
- (b) services such as banking, financial services, travel, leisure activities, phone service, wireless service, cable service; and/ or
- (c) companies, brands, institutions, corporations, (legal) entities; and/ or
- (d) entertainment content such as movies, television content, music; and/ or

- (e) events such as sporting events, cultural events; and/ or
- (f) persons, artists, groups, or individuals; and/ or
- (g) a general message (e.g., referral to a web site where a specific product can be acquired); and/ or
- (h) advice; and/ or

any combination within and/ or between the different groups.

(39) The method and system of claims 24 and 25 wherein said advertisement message part(s) comprise(s)

- (a) music; and/ or
- (b) sound; and/ or
- (c) noise; and/ or
- (d) spoken words; and/ or
- (e) a jingle or music branding; and/ or
- (f) voice branding; and/ or

any combination within and/ or between the different groups.

(40) The method and system of claims 24, 25 and 29 wherein at least one music entertainment part is a digital audio format of a single or a digital audio format of a part of a single that is or was listed on the Billboard Hot 100 single charts or Top 40 tracks.

(41) The method and system of claims 24, 25 and 29 wherein at least one music entertainment part is a digital audio format of at least one past, present or future single – independent of the way it is published.

(42) The method and system of claims 24, 25 and 26 wherein the content and/ or position of said advertisement message part(s) can change

from playback to playback of the digital audio file of the present invention.

- (43) The method and system of claims 24 and 25 wherein said digital audio file is played-back or reproduced on a computer, decoding device, (portable) MP3 player, (portable) digital music player, (portable) digital audio player, cellular phone, smart phone.
- (44) The method and system of claims 24, 25, 26, 34, 36, 37, 38 and 39 wherein the consumer acquires the right to play a specific digital audio file of the present invention for an unlimited number of times by paying a specific price at one point in time.
- (45) The method and system of claims 24, 25, 26, 34, 36, 37, 38 and 39 wherein the consumer acquires the right to play one or more digital audio files of the present invention for an unlimited number of times by paying a subscription fee.
- (46) The method and system of claims 24, 25, 26, 34, 36, 37, 38 and 39 wherein the consumer pays a specific price each time the consumer plays a digital audio file of the present invention.

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	3302134
<b>Application Number:</b>	10707770
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	1769
<b>Title of Invention:</b>	Method and system for selling and/ or distributing digital audio files
<b>First Named Inventor/Applicant Name:</b>	Markus Hildinger
<b>Customer Number:</b>	37439
<b>Filer:</b>	Markus Hildinger
<b>Filer Authorized By:</b>	
<b>Attorney Docket Number:</b>	MP3
<b>Receipt Date:</b>	14-MAY-2008
<b>Filing Date:</b>	11-JAN-2004
<b>Time Stamp:</b>	13:28:15
<b>Application Type:</b>	Utility under 35 USC 111(a)

### Payment information:

Submitted with Payment	no
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### File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Applicant Arguments/Remarks Made in an Amendment	reply_to_office_action.pdf	73356 2c8961e8e252df9a8a307454681044c2 0b9712fc	no	10

### Warnings:

### Information:

2	Claims	claims_amendment.pdf	63097 f6a143486f2f645fa7c1f194701774923c 357133	no	13
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**Warnings:**

**Information:**

**Total Files Size (in bytes):**

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**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.